IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

WP(C).No. 9849 of 2004(V)

PETITIONERS:

1. SAVITHRI, AGED 53 YEARS,
   WIFE OF LATE CHELLAPPAN, EDAVANATTUVELIYIL,
   THERTHALA VADAKKU MURI, CHERTHALA VADAKKU VILLAGE,
   CHERTHALA TALUK.

2. ABHILASH, AGED 25 YEARS,
   SON OF LATE CHELLAPPAN, EDAVANATTUVELIYIL,
   CHERTHALA VADAKKU MURI, CHERTHALA VADAKKU VILLAGE,
   CHERTHALA TALUK.

3. DHANYA, AGED 19 YEARS,
   DAUGHTER OF LATE CHELLAPPAN, EDAVANATTUVELIYIL,
   CHERTHALA VADAKKU MURI, CHERTHALA VADAKKU VILLAGE,
   CHERTHALA TALUK.

BY ADV. SRI.H.B.SHENOY
SRI.B.ASHOK SHENOY

RESPONDENTS:

K.C.GEORGE, AGED 67 YEARS,
SON OF CHRISTUDAS, NIKARTHIL, KALAVAMKODAM P.O.,
UZHUVA MURI, VAYALAR VILLAGE, CHERTHALA TALUK.

BY ADV. SRI.SHAJI THANKAPPAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 9849 OF 2004

Dated this the 25th day of June, 2007

JUDGMENT

Ext.P2 order passed by the Subordinate Judge, Cherthala dismissing an application for restoration of an injunction preferred by the petitioners is under challenge.

2. I have heard the submissions of Smt.Lakshmy Shenoy, counsel for the petitioner and Sri.Shaji Thankappan counsel for the respondent. Having regard to the submissions addressed at the Bar and having gone through Ext.P2, I am of the view that on the consideration that as far as possible causes must be allowed to be adjudicated on merits, the learned Subordinate Judge might to have allowed the application by putting the petitioner to terms.

Accordingly, setting aside Ext.P2, I allow the IA on condition that the petitioner pays a total amount of Rs.1,500/- by way of costs out of which Rs.750/- will be payable to the respondent either directly or through his counsel in this court and Rs.750/- will be paid by cash to the High Court Legal Services Committee. Payments shall be made by the petitioner within one month from today. If payments are made the order setting aside Ext.P2 will become operative and the IA will stand allowed.

If payments are not made as above, Ext.P2 will stand confirmed and the Writ Petition will stand dismissed.

PIUS C. KURIAKOSE, JUDGE

btt